

Exhibit 1

*United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Abbott Laboratories,
Inc., et al.,*
Civil Action No. 01-12257-PBS

Exhibit to the July 24, 2009, Declaration of George B. Henderson, II
In Support of United States' Common Memorandum of Law in Support of Cross-Motions for
Partial Summary Judgment and in Opposition to the Defendants' Motions for Summary
Judgment

PRESCRIPTION DRUGS
used with Nebulizers
AUDIT PERIOD: 1/1/94 - 2/28/95
CIN A-03-95-00004

Palmetto Government Benefits Administrators

Medicare Region C, Durable Medical Equipment Regional Carrier
Professional Reimbursement Department
P.O. Box 100190
Columbia, South Carolina 29202

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2nd Transmittal
by Fax
10/24/94

NUMBER OF PAGES: 5
TRANSMITTAL SHEET: 1
TOTAL PAGES: 6

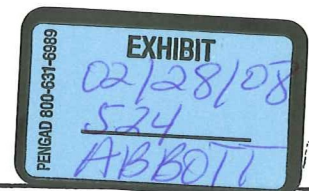
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CONTACT: Kirsten AT (803) 788-0222 EXT 1151

COMMENTS: Bob: This is our internal procedure for drug pricing. This procedure has been developed for the most part, based on oral directive received from HCFA BO's. We also have a few written directives from HCFA, however, in researching this I have been informed there is no decisive procedure set forth by the Medicare Carrier's Manual. I hope this information will be beneficial. Please feel free to contact me for additional information or assistance.

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HHD008-0282

MEDICARE PROFESSIONAL REIMBURSEMENT DESK PROCEDURE**SUBJECT: DRUG PRICING FOR IMMUNOTHERAPY, BRONCHODILATOR and
CHEMOTHERAPY DRUGS**Procedure Number: **PRIC105**Effective Date: **09/01/94****DESCRIPTION**

Drug code prices are reviewed for possible updates on a quarterly basis. See Exhibit I for list of HCPC drug codes priced for Part B, DMERC and SADMERC.

- STEP 1:** Refer to Exhibit I for list of drug codes to be priced. (Procedure PRIC105 does not apply to Oral Anti-Cancer Drugs. Procedure PRIC106 refers to Oral Anti-Cancer Drugs). Establish prices only for the HCPC drug codes listed. All other drug codes will be priced on an individual basis if a claim is received, since coverage issues are involved.
- STEP 2:** Refer to the **RED BOOK** Average Wholesale Price (AWP) for pricing information. Use the annual **RED BOOK** to apply the January updates if available. Sometimes the annual book is not received timely. When this occurs continue using the previous annual **RED BOOK** and refer to the monthly updates for changes. The monthly **RED BOOK** updates should be used for the quarterly updates. Quarterly updates are applied January 1, April 1, July 1 and October 1. (You should use the March monthly **RED BOOK** updates for April's price revisions). If a drug is not found in the **RED BOOK** annual or monthly publication, the **FACTS and COMPARISON** reference book should be consulted. Generic names as well as brand names and the company or companies that manufacture the drugs are listed here. After the drug is identified, refer back to the **RED BOOK**. If the drug is still not found (same strength and dosage), refer to the **MEDISPAN AWP** reference catalog.

(NOTE: If the monthly **RED BOOK** update has a change, go back to the annual **RED BOOK** to get ALL drug company prices that were not listed in the monthly update. Changed prices and any unchanged prices should always be included in the pricing calculation.)

- STEP 3:** **ALWAYS** use the generic name of the drug. This is the name identified by the HCPC code. The brand name is only to be used if there is not a generic available. The 1994 Annual **RED BOOK** identifies brand names when generic is unavailable. Otherwise, refer to the **FACTS and COMPARISON** reference book.

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STEP 4: Determine which of the following conditions is true before pricing the drug:

- (A.) Ensure that the strength and dosage match the procedure code description. If this is true, use the price found in the **RED BOOK**.
- (B.) If a procedure code has not yet been established, (the drug is billed with a Not Otherwise Classified (NOC) code) determine the strength and dosage of the drug that is being billed. Continue with STEP 5.
- (C.) If the strength and dosage identified by the code do not match the **RED BOOK**, please continue with STEP 5.
- (D.) If "up to" is included in the drug's nomenclature, use that dose when pricing. EX: Demerol, up to 50 mg. In this example, only use the dose of 50 mg. when pricing. Please continue to STEP 5.
- (E.) If the exact dose is not found, use the dose small enough to include the nomenclature dose. EX: Morphine 50 mg. This dose is not found in the **RED BOOK**, but 25 mg and 100 mg are found. Use the 100 mg. and divide by 2. Do NOT use the lower dose. Please continue to STEP 5.

STEP 5: With all necessary data gathered, price the drug by using the Average Wholesale Price (AWP) as instructed below:

- (A.) Drug source is brand name only-- Use the brand name.
- (B.) Drug source is multiple brand names -- Use the median of the brand names.
- (C.) Drug source is multiple brand names and only one generic -- Use the generic.
- (D.) Drug source is multiple brand names and multiple generics -- Use the median of the generics.

* To obtain the median, use the method outlined for customary charges (the AWP high enough to include the median will be the allowance).

STEP 6: If dosage is not included in the nomenclature, consult our medical director to assist in determining the "most frequently administered dosage" Please continue with STEP 5.

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STEP 7: Medicare does NOT pay for wasted/unused drugs, except in the case of
Chemotherapy drugs.

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EXHIBIT I

List of drug codes identified as covered for by the local carrier and the DMERC. There are other drugs that are not priced. These drugs are identified as non-covered under Medicare and should not be priced unless determined to be a covered drug.

INJECTABLE/INFUSION DRUGS:

| | | | | | | | | |
|-------|--------|--------|-------|--------|--------|--------|--------|--------|
| J0120 | J0635 | J1100 | J1580 | J2060 | J2675 | J3260 | J7194 | J9211 |
| J0150 | J0640* | J1110 | J1600 | J2100 | J2680 | J3270 | J7197 | J9213 |
| J0170 | J0690 | J1120 | J1630 | J2150 | J2690 | J3280 | J9000* | J9214 |
| J0190 | J0694 | J1160 | J1631 | J2160 | J2700 | J3301 | J9010* | J9215 |
| J0205 | J0695 | J1165 | J1640 | J2175* | J2710 | J3302 | J9031 | J9216 |
| J0210 | J0696 | J1170* | J1660 | J2180 | J2720 | J3303 | J9040* | J9217 |
| J0256 | J0697 | J1180 | J1670 | J2190 | J2730 | J3310 | J9045 | J9218 |
| J0280 | J0698 | J1200 | J1690 | J2210 | J2760 | J3320 | J9050 | J9230 |
| J0290 | J0700 | J1205 | J1700 | J2240 | J2765 | J3350 | J9060 | J9250 |
| J0300 | J0710 | J1212 | J1710 | J2270* | J2790 | J3360 | J9062 | J9260 |
| J0330 | J0720 | J1230 | J1720 | J2275* | J2800 | J3364 | J9070 | J9265 |
| J0340 | J0725 | J1240 | J1730 | J2320 | J2820 | J3365 | J9080 | J9268 |
| J0360 | J0730 | J1320 | J1739 | J2321 | J2860 | J3370* | J9090 | J9270 |
| J0380 | J0743 | J1330 | J1741 | J2322 | J2910 | J3390 | J9091 | J9280 |
| J0390 | J0745 | J1360 | J1760 | J2330 | J2912 | J3400 | J9092 | J9290 |
| J0400 | J0760 | J1380 | J1770 | J2350 | J2914 | J3410 | J9093 | J9291 |
| J0460 | J0770 | J1390 | J1780 | J2360 | J2920* | J3420 | J9094 | J9293 |
| J0470 | J0780 | J1410 | J1790 | J2370 | J2930* | J3430 | J9095 | J9295 |
| J0475 | J0800 | J1435 | J1800 | J2405 | J2950 | J3450 | J9096 | J9320 |
| J0500 | J0810 | J1436 | J1810 | J2410 | J2970 | J3470 | J9097 | J9340 |
| J0510 | J0830 | J1440 | J1820 | J2440 | J2995 | J3520 | J9100* | J9360* |
| J0515 | J0895* | J1441 | J1840 | J2460 | J2996 | J7030 | J9110* | J9370* |
| J0520 | J0900 | J1455* | J1850 | J2480 | J3000 | J7040 | J9120 | J9375* |
| J0530 | J0945 | J1460 | J1885 | J2490 | J3010* | J7042 | J9130 | J9380 |
| J0540 | J0970 | J1470 | J1890 | J2510 | J3070 | J7050 | J9140 | |
| J0550 | J1000 | J1480 | J1910 | J2515 | J3080 | J7051 | J9150 | |
| J0560 | J1020 | J1490 | J1930 | J2540 | J3105 | J7060 | J9165 | |
| J0570 | J1030 | J1500 | J1940 | J2545* | J3120 | J7070 | J9181 | |
| J0580 | J1040 | J1510 | J1960 | J2550 | J3130 | J7080 | J9182 | |
| J0585 | J1050 | J1520 | J1970 | J2560 | J3140 | J7090 | J9185 | |
| J0590 | J1055 | J1530 | J1980 | J2595 | J3150 | J7100 | J9190* | |
| J0600 | J1060 | J1540 | J1990 | J2600 | J3180 | J7110 | J9200* | |
| J0610 | J1070 | J1550 | J2000 | J2640 | J3230 | J7130 | J9202 | |
| J0620 | J1080 | J1561 | J2010 | J2650 | J3240 | J7190 | J9208 | |
| J0630 | J1090 | J1570 | J2050 | J2670 | J3250 | J7192 | J9209 | |

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EXHIBIT I (continued)

IMMUNOTHERAPY DRUGS:

| | | | | |
|-------|-------|--------|--------|--------|
| J7500 | J7503 | J7506 | K0121* | K0124* |
| J7501 | J7504 | K0119* | K0122* | K0125* |
| J7502 | J7505 | K0120* | K0123* | |

BRONCHODILATOR DRUGS:

| | | | | |
|--------|--------|--------|--------|--------------|
| J7610* | J7627* | J7651* | J7655* | J7672* |
| J7615* | J7630* | J7652* | J7660* | J7675* |
| J7620* | J7640* | J7653* | J7665* | J7699* (NOC) |
| J7625* | J7650* | J7654* | J7670* | J7799* (NOC) |

DMERC Compounded drug codes are on hold.

ORAL ANTI-CANCER DRUGS: (See PRIC106 for pricing instructions).

| | | | |
|--------|---------------|--------|---------------|
| WW010* | 00015-0504-01 | WW057* | 00182-1539-01 |
| WW011* | 00015-0503-01 | WW058* | 51432-0522-03 |
| WW013* | 00015-0503-02 | WW059* | 00904-1749-60 |
| WW030* | 00015-3091-45 | WW060* | 00378-0014-01 |
| WW050* | 00536-3998-01 | WW061* | 58469-3998-30 |
| WW051* | 00536-3998-36 | WW062* | 00603-4499-21 |
| WW052* | 00005-4507-23 | WW063* | 00364-2499-01 |
| WW053* | 00555-0572-35 | WW064* | 51079-0670-05 |
| WW054* | 00555-0572-02 | WW080* | 00081-0045-35 |
| WW055* | 00781-1076-36 | | |
| WW056* | 00781-1076-01 | | |

* DRUGS COVERED BY THE DMERC

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